



DIVISION

DAC 1/4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/176,634

RECEIVED

2004 AUG -3 PM 3: 47
Confirmation No. 2106

Applicant : Turi, et al.

AUG 0 5 2004

Filed : October 22, 1998

OFFICE OF PATENTS

TC/A.U. : 3761

Examiner : Michele M. Kidwell

Docket No. : 34304/148

Customer No. : 1912

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope, with sufficient postage, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date which appears below:

Name: Neal L. Rosenberg

Signature: *Neal L. Rosenberg*

Date: 7-26-04

CORRECTION OF CLAIMED SMALL ENTITY STATUS
AND PAYMENT OF DEFICIENCY PURSUANT TO 37 CFR § 1.28(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

08/04/2004 DALLEN 00000018 09176634

01 FC:1461

645.00 OP

Sir:

Small entity status, as a small business concern, was claimed in good faith when the above-identified application was filed. Upon further investigation initiated by the undersigned new attorney for Applicant, it now appears that at the time of the filing of the above-identified application the total number of employees of the Assignee of the application (including all related companies) was slightly over 500.

Accordingly, Applicant submits herewith a payment of the deficiency owed, as

calculated by the difference between the current fee amount (for other than a small

Adjustment date: 08/11/2004 AKELLEY

08/04/2004 DALLEN 00000018 09176634

01 FC:1461 -645.00 OP

entity) on this date and the amount of the previous erroneous (small entity) fee

Adjustment date: 08/11/2004 AKELLEY

10/27/1998 JWASHINGTON 00000018 09176634

01 FC:201 payment. -395.00 OP

02 FC:202 -246.00 OP

08/11/2004 AKELLEY 00000002 09176634

The deficiency payment is itemized below as required by Section 1.28(c)(ii).

01 FC:1001 770.00 OP

02 FC:1201 516.00 OP

Subsequent to filing of the patent application on October 22, 1998 at the small entity

status rate, all subsequent fees were paid at the large entity rate applicable at the appropriate time and thus no deficiency was incurred with respect thereto.

2004 AUG -3 PM 3: 47

Filing of Application

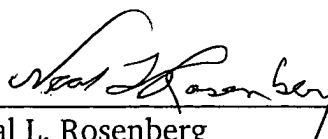
	<u>10/22/98 (SES)</u>	<u>7/1/04 (LES)</u>	<u>Deficiency</u>
Basic Fee:	\$395.00	\$770.00	\$375.00
Total Claims:			
16-20=0	\$0	\$0	\$0
Independent Claims:			
9-3=6	\$246.00 (@ \$41)	\$516.00 (@ \$86)	<u>\$270.00</u> \$645.00

A check in the amount of \$645.00 to cover the fee deficiency is enclosed. No other fee is deemed necessary in connection with the submission of this Communication. However, if any other fee is required with the filing of this Communication or to maintain the pendency of the subject application, the Patent Office is authorized to withdraw the amount of any such fee from Deposit Account No. 01-1785. Any overpayment may also be credited to Deposit Account No. 01-1785.

Respectfully submitted

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, NY 10016
(212) 336-8000

Dated: New York, New York
July 26, 2004

By: 
Neal L. Rosenberg
Registration No.: 21,088



UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 11 2004

OFFICE OF PETITIONS

In re Application of
Turi et al.

Application No. 09/176,634

Filed: October 22, 1998

Attorney Docket No. JWB-98-9-P

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).


The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Inquiries related to this communication should be directed to Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

This matter is being referred to Technology Center 3700 to await a response to the final Office action mailed on March 31, 2004. Failure to timely respond to the Office action will result in abandonment of the above-identified application.


Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: NEAL L. ROSENBERG
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